

UNITED STATES OF AMERICA)
v.) GOVERNMENT RESPONSE TO
Manning, Bradley E.) DEFENSE NOTICE OF INTENT
PFC, U.S. Army,) TO DISCLOSE CLASSIFIED
HHC, U.S. Army Garrison,) INFORMATION UNDER MRE 505(h),
Joint Base Myer-Henderson Hall) DATED 17 AUGUST 2012
Fort Myer, Virginia 22211)
)
22 August 2012

The United States reviewed the Defense Notice of Intent to Disclose Classified Information under Military Rule of Evidence (MRE) 505(h), dated 17 August 2012, and does not object to the defense notice, except as otherwise articulated below.

FURTHER SPECIFICITY

The United States requests further specificity with respect to the following paragraphs:

State Department Draft Damage Assessment

Paragraph 1e
Paragraph 1r
Paragraph 1u
Paragraph 1x

In each of these paragraphs, the United States is unclear what specific information is being referenced by the defense, because the page cited either begins with a paragraph that started on another page, or because the page contains sub-paragraphs. *See* Def. Not. at 1 (citing information by paragraph and page number).

Information Review Task Force Assessment

Paragraph 2h
Paragraph 2i
Paragraph 2j

After reviewing the assessment, the United States was unable to find the specific language cited in these paragraphs. The United States requests the defense provide the prosecution with the verbatim portion of the text from the assessment sought to be disclosed during trial.

Information from the document beginning on BATES 00505076

After reviewing the document, the United States was unable to find the specific language cited in paragraph 8. See Def. Not. at 3. The United States requests the defense provide the prosecution with the verbatim portion of the text from the document sought to be disclosed during trial.

Information from the document beginning on BATES 00505061

After reviewing the PowerPoint presentation, the United States is unclear what information the defense is referring to in paragraph 9 of its notice. *See* Def. Not. at 3. The United States requests the defense provide further clarity.

SPECIFIC OBJECTIONS TO NOTICE

In paragraph 11 of the defense notice, the defense has provided notice of its intent to disclose the “classified information that forms the basis of the current charges and specifications.” Def. Not. at 3. To the extent the defense intends to disclose classified information outside the content of the charged documents or videos that serve as the basis for Specifications 2, 3, 5, 7, 9, 10, 11, 13, 14, and 15 of Charge II, the United States objects that the defense notice in this paragraph is inadequate. *See* Appellate Exhibit (AE) CCIV (articulating the Government’s objections to “general” notice). Further, the United States specifically objects to the notice provided in paragraph 11 with respect to “any classified information contemplated by the allegations contained in Charge III.” Def. Not. at 3. A general statement “of the areas about which evidence may be introduced” is not sufficient. MRE 505(h)(3); *see* AE CCIV.

NOTICE OF WITNESSES

Per the agreement reached between the parties at the Article 39(a) session on 19 July 2012, as well as the Protective Order dated 16 March 2012, the defense must provide notice of the witnesses it intends to elicit classified information from during trial at the time it files a witness list with the Court. In accordance with the Protective Order, the defense must also provide notice of classified information it intends to elicit from potential witnesses during witness interviews, if any. *See* AE XXXII.



JODEAN MORROW
CPT, JA
Assistant Trial Counsel

I certify that I served or caused to be served a true copy of the above on Mr. David E. Coombs, Civilian Defense Counsel, via electronic mail, on 22 August 2012.



JODEAN MORROW
CPT, JA
Assistant Trial Counsel